

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 JEFFREY M. PHILLIPS
Deputy Attorney General
4 State Bar No. 154990
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-6292
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

Case No. 2013-133

13 **LORI LYNN RITCHIE,**
14 **aka LORI L. BENNIGAN,**
15 **aka LORI L. GLOVER**
16 **aka LORI L. TRUSHEL**

STATEMENT OF ISSUES

Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Statement of Issues solely
20 in her official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
21 Department of Consumer Affairs.

22 2. On or about November 9, 2011, the Board received an application for a registered
23 nurse license from Lori Lynn Ritchie, also known as Lori L. Bennigan, Lori L. Glover, and Lori
24 L. Trushel ("Respondent"). On or about November 4, 2011, Respondent certified under penalty
25 of perjury to the truthfulness of all statements, answers, and representations in the application.
26 The Board denied the application on February 15, 2012.

27 ///

28 ///

1 ///

2 **STATUTORY AND REGULATORY PROVISIONS**

3 3. Business and Professions Code ("Code") section 2736 provides, in pertinent part, that
4 the Board may deny a license when it finds that the applicant has committed any acts constituting
5 grounds for denial of licensure under section 480 of that Code.

6 4. Code section 2761 states, in pertinent part:

7 The board may take disciplinary action against a certified or licensed
8 nurse or deny an application for a certificate or license for any of the following:

9 (a) Unprofessional conduct . . .

10

11 (4) Denial of licensure, revocation, suspension, restriction, or any other
12 disciplinary action against a health care professional license or certificate by another
13 state or territory of the United States, by any other government agency, or by another
14 California health care professional licensing board. A certified copy of the decision
15 or judgment shall be conclusive evidence of that action.

14

15 (f) Conviction of a felony or of any offense substantially related to the
16 qualifications, functions, and duties of a registered nurse, in which event the record of
17 the conviction shall be conclusive evidence thereof . . .

17 5. Code section 2762 states, in pertinent part:

18 In addition to other acts constituting unprofessional conduct within the
19 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a
20 person licensed under this chapter to do any of the following:

21

22 (b) Use any controlled substance as defined in Division 10 (commencing
23 with Section 11000) of the Health and Safety Code, or any dangerous drug or
24 dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or
25 in a manner dangerous or injurious to himself or herself, any other person, or the
26 public or to the extent that such use impairs his or her ability to conduct with safety to
27 the public the practice authorized by his or her license.

28 (c) Be convicted of a criminal offense involving the prescription,
consumption, or self administration of any of the substances described in subdivisions
(a) and (b) of this section, or the possession of, or falsification of a record pertaining
to, the substances described in subdivision (a) of this section, in which event the
record of the conviction is conclusive evidence thereof . . .

28 ///

1 ///

2

6. Code section 2765 states:

3

4

5

6

7

8

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a registered nurse is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked, or may decline to issue a license or certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

9

7. Code section 480 states, in pertinent part:

10

11

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

12

13

14

15

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

16

17

18

(3)(A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

19

20

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made . . .

21

8. California Code of Regulations, title 16, section 1444 states, in pertinent part:

22

23

24

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

25

26

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160 . . .

27

28

///

///

1 ///

2 ///

3 **FIRST CAUSE FOR DENIAL**

4 **(Criminal Convictions)**

5 9. Respondent's application is subject to denial pursuant to Code sections 2736, 2761,
6 subdivision (f), and 480, subdivisions (a)(1) and (a)(3)(A), in that Respondent was convicted of
7 crimes which are substantially related to the qualifications, functions, and duties of a registered
8 nurse, as follows:

9 a. On or about June 30, 1994, in the criminal proceeding titled *State of Indiana v. Lori*
10 *L. Bennigan* (Super. Ct. Noble County, 1994, Case No. 9403CM0201), Respondent pled guilty to
11 operating a vehicle with a blood alcohol level ("BAC") of at least 0.10 percent, a misdemeanor.
12 The circumstances of the crime are as follows: On or about March 13, 1994, an officer with the
13 Kendallville Police Department ("KPD") observed Respondent operating a vehicle left of center
14 on a roadway with a head light out. The officer initiated a traffic stop on the vehicle and made
15 contact with Respondent. Respondent had a strong odor of an alcoholic beverage on her breath,
16 her eyes were bloodshot and glassy, and her balance was unstable. Respondent submitted to a
17 chemical test and was determined to have a BAC of 0.14 percent.

18 b. On or about July 26, 1996, in the criminal proceeding titled *State of Indiana v. Lori L.*
19 *Glover* (Super. Ct. Noble County, 1996, Case No. 9604DF0123), Respondent pled guilty to
20 operating a vehicle while intoxicated, second or subsequent offense, a felony. Respondent was
21 sentenced to serve one and a half years in a Department of Corrections facility, suspended except
22 for 12 days, and was placed on probation for one year on terms and conditions. On March 20,
23 1997, Respondent's probation was revoked and she was sentenced to serve 184 days in a
24 Department of Corrections facility consecutive with her sentence in Case No. 9609CM0901, as
25 set forth below. The circumstances of the crime are as follows: On or about April 14, 1996, an
26 officer with the KPD observed Respondent driving a vehicle up on the curb of the northbound
27 lane on North Main Street. The officer initiated a traffic stop on the vehicle and made contact
28

1 with Respondent. The officer observed that Respondent had an odor of an alcoholic beverage on
2 her breath, her speech was slow and slurred, her eyes were bloodshot, and she staggered from the

3 ///

4 vehicle. Respondent submitted to a chemical test and was determined to have a BAC of 0.14
5 percent.

6 c. On or about March 20, 1997, in the criminal proceeding titled *State of Indiana v. Lori*
7 *L. Glover* (Super. Ct. Noble County, 1997, Case No. 9609CM0901), Respondent pled guilty to
8 operating a vehicle while intoxicated, second or subsequent offense, a felony, and to driving
9 while suspended, a misdemeanor. Respondent was sentenced to serve 1,095 days in a
10 Department of Corrections facility, suspended except for 182 days, and was placed on probation
11 for two years on terms and conditions. The circumstances of the crime are as follows: On or
12 about September 28, 1996, an officer with the KPD observed Respondent driving a vehicle left of
13 center on the roadway. Respondent also had her turn signals on, but did not turn, and failed to
14 pull over in a reasonable amount of time. The officer initiated a traffic stop on the vehicle and
15 made contact with Respondent. Respondent's eyes were glassy, her speech was "thick tongued",
16 her balance was unsteady, and she staggered from the vehicle. Respondent submitted to a
17 chemical test and was determined to have a BAC of 0.21 percent. The above incident occurred
18 while Respondent was on probation for her conviction of July 26, 1996.

19 d. On or about July 22, 1997, in the criminal proceeding titled *State of Indiana v. Lori L.*
20 *Glover* (Super. Ct. Noble County, 1997, Case No. 9703DF0028), Respondent pled guilty to
21 driving while intoxicated, a misdemeanor. The circumstances of the crime are as follows: On or
22 about March 15, 1997, an officer with the Noble County Sheriff's Office responded to the scene
23 of a solo vehicle accident. Respondent admitted to the officer that she was driving the vehicle.
24 The officer observed that Respondent had a strong odor of an alcoholic beverage on her breath,
25 and noted that she had received minor injuries in the accident (the vehicle was also "totaled").
26 Later, Respondent submitted to a chemical test of her blood and was determined to have a BAC
27 of 0.18 percent.

1 e. On or about April 14, 2005, in the criminal proceeding titled *State of Indiana v. Lori*
2 *L. Ritchie* (Super. Ct. Noble County, 2005, Case No. 0411CM0982), Respondent pled guilty to
3 disorderly conduct, a misdemeanor (Respondent was also charged with battery, but that count was
4 dismissed in view of her plea as above). The circumstances of the crime are as follows: On or
5 about November 7, 2004, Respondent slapped or hit victim K.J.K. in and about the back of his
6 head and neck. The incident occurred on the sidewalk in front of Stag's Sports Bar located in
7 Rome City, Indiana.

8 f. On or about May 3, 2007, in the criminal proceeding titled *State of Indiana v. Lori*
9 *Ritchie* (Super. Ct. Noble County, 2007, Case No. 0605CM0519), Respondent was found guilty
10 by bench trial of battery, a misdemeanor. The circumstances of the crime are as follows: On or
11 about May 9, 2006, Respondent struck victim D.R. in the face with her fist.

12 **SECOND CAUSE FOR DENIAL**

13 **(Use of Alcoholic Beverages to an Extent or in a Manner**

14 **Dangerous or Injurious to Oneself, Others, and the Public)**

15 10. Respondent's application is subject to denial pursuant to Code sections 2736, 2761,
16 subdivision (a), 2762, subdivision (b), and 480, subdivision (a)(3)(A), in that on or about March
17 13, 1994, April 14, 1996, September 28, 1996, and March 15, 1997, Respondent consumed
18 alcoholic beverages to an extent or in a manner dangerous or injurious to herself, others, and the
19 public, as set forth in subparagraphs 9 (a) through (d) above.

20 **THIRD CAUSE FOR DENIAL**

21 **(Convictions Related to the Consumption of Alcoholic Beverages)**

22 11. Respondent's application is subject to denial pursuant to Code sections 2736, 2761,
23 subdivision (a), 2762, subdivision (c), and 480, subdivision (a)(3)(A), in that on or about June 30,
24 1994, July 26, 1996, March 20, 1997, and July 22, 1997, Respondent was convicted of criminal
25 offenses involving the consumption of alcoholic beverages, as set forth in subparagraphs 9 (a)
26 through (d) above.

27 **FOURTH CAUSE FOR DENIAL**

28 **(Disciplinary Action by the Indiana State Board of Nursing)**

12. Respondent's application is subject to denial pursuant to Code sections 2736, 2761, subdivision (a)(4), and 480, subdivision (a)(3)(A), in that on or about February 5, 2008, pursuant to the Decision on License Application in the disciplinary action titled "In the Matter of the License Application of Lori Ritchie", Case No. 2007 NB 0170, the Indiana State Board of Nursing ordered that Respondent's license as a registered nurse in the state of Indiana be issued on indefinite probation, and that Respondent may apply to withdraw the probation from her license after successful completion of certain terms or conditions. The disciplinary proceeding was based on Respondent's convictions set forth in paragraph 9 above. A true and correct copy of the Decision on License Application is attached as **exhibit A** and incorporated herein.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Denying the application of Lori Lynn Ritchie, also known as Lori L. Bennigan and Lori L. Glover, for a registered nurse license;
2. Taking such other and further action as deemed necessary and proper.

DATED: August 21, 2012

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

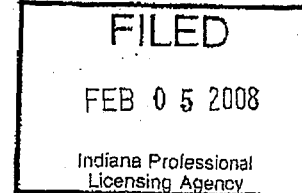
SA2012105419

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A
Decision on License Application

BEFORE THE INDIANA
STATE BOARD OF NURSING
CAUSE NO. 2007 NB 0170

IN THE MATTER OF THE LICENSE APPLICATION OF
LORI RITCHIE



DECISION ON LICENSE APPLICATION

Lori Ritchie ("Applicant") appeared before the Indiana State Board of Nursing ("Board") on November 13, 2007, in the Auditorium of the Indiana Government Center South, 302 West Washington Street, Indianapolis, Indiana. She appeared to answer questions from the Board concerning her application for a license as a registered nurse.

After considering Applicant's statements and taking official notice of its file in this matter, the Board issues the following Decision:

BACKGROUND

1. Applicant's mailing address is 2425 Hubertus Avenue, Fort Wayne, Indiana 46805.
2. Applicant submitted her application for a license as a registered nurse in September 2007.
3. Along with her application, Applicant informed the Board that she was convicted on four separate occasions in the 1990s for driving while intoxicated. In 2004 she was convicted of disorderly conduct and in 2006 of battery. Applicant maintains the latter convictions were the result domestic problems.
4. Applicant has demonstrated that she may practice nursing in Indiana with a probationary license.

TERMS AND CONDITIONS

Based upon the foregoing Information, the Board imposes the following Terms and Conditions on the Applicant's license:

1. The Applicant's license as a registered nurse will be issued on INDEFINITE PROBATION. She may apply to withdraw the probation from

NOTICE OF RIGHT TO PETITION FOR REVIEW OF THIS DECISION

You may petition for review of this decision under IC 4-21.5-3-7. The petition must be filed with the Indiana State Board of Nursing in writing, identifying the reasons for review and demonstrating that you have been aggrieved or adversely affected by the Board's decision. The petition for review must be filed no later than eighteen days from the issuance of this decision unless such date is a Saturday, a Sunday, a legal holiday under state statute or a day that the Indiana Professional Licensing Agency's offices are closed during regular business hours in which case the deadline would be the first day which is not a Saturday, a Sunday a legal holiday under state statute or a day that the Indiana Professional Licensing Agency's offices are closed during regular business hours.

If your petition for review is timely filed and review granted, you will receive notification of an administrative hearing. You or your representative must be present at that hearing. You have the right to be represented by an attorney at your own expense. A deputy attorney general may be present to represent the State of Indiana. As petitioner, you will have the burden of proving that the Board's decision is incorrect.

Copy to:

Lori Ritchie
2425 Hubertus Avenue
Fort Wayne, Indiana 46805
CERTIFIED MAIL NUMBER: 7002 2410 002 4162 6544
RETURN RECEIPT REQUESTED

438614

BEFORE THE INDIANA
STATE BOARD OF NURSING
CAUSE NUMBER: 2007 NB 0170

IN THE MATTER OF THE LICENSE OF:)

LORI RITCHIE, R.N.)

LICENSE NUMBER: 28176950A)

FILED

FEB 02 2012

Indiana Professional
Licensing Agency

FINAL ORDER

Carolyn Slagle, designated by the Indiana State Board of Nursing ("Board"), pursuant to Ind. Code § 4-21.5-3-9 to act as an administrative law judge ("ALJ") held an administrative hearing on January 5, 2012, concerning Lori Ritchie's request to withdraw the probation from her license as a registered nurse.

A copy of the ALJ's Recommended Findings of Fact, Conclusions of Law and Order is attached hereto as Exhibit A and made a part hereof.

Pursuant to Ind. Code § 4-21.5-3-29(c) the Board, at its meeting of January 19, 2012, votes 7 to 0 to affirm said Recommended Findings of Fact, Conclusions of Law and Order and adopt it as a final order in this proceeding.

The probation on Ritchie's license is **WITHDRAWN**.

BEFORE THE INDIANA
STATE BOARD OF NURSING
CAUSE NUMBER: 2007 NB 0170

IN THE MATTER OF THE LICENSE OF:)
LORI RITCHIE, R.N.)
LICENSE NUMBER: 28176950A)

FILED

JAN 13 2012

Indiana Professional
Licensing Agency

RECOMMENDED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

Carolyn Slagle, designated by the Indiana State Board of Nursing ("Board") pursuant to Ind. Code § 4-21.5-3-9 to act as an administrative law judge ("ALJ"), held an administrative hearing on January 5, 2012 in Conference Center Room 4 of the Indiana Government Center South, 302 West Washington Street, Indianapolis, Indiana, concerning Lori Ritchie's request to withdraw the probation from her license as a registered nurse.

Ritchie appeared in person and waived her right to be represented by counsel.

Jason Gross, Deputy Attorney General, represented the State of Indiana.

The ALJ, after considering the evidence presented and taking official notice of the file in this matter, issues the following Recommended Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. Ritchie, whose mailing address is 8825 Hunters Knoll Run, Fort Wayne, Indiana 46825, is a registered nurse with license number 28176950A.
2. Ritchie received timely and proper notice of the date, time, and location of this hearing pursuant to Ind. Code § 4-21.5-3-20.

Exhibit
A

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the Board
WITHDRAWS the probation on Ritchie's license.

SO ORDERED, this 13 day of January, 2012.

INDIANA STATE BOARD OF NURSING

By: 

Frances L. Kelly

Executive Director

Indiana Professional Licensing Agency

**NOTICE OF RIGHT TO OBJECT TO RECOMMENDED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER**

Either party may object to the ALJ's Recommended Findings of Fact, Conclusions of Law and Order: but any objection must be filed with the Indiana State Board of Nursing, identifying the basis of the objection with reasonable particularity, no later than eighteen days from the ISSUANCE of this order unless such date is a Saturday, a Sunday, a legal holiday under state statute or a day that the Indiana Professional Licensing Agency offices are closed during regular business hours in which case the deadline would be the first day which is not a Saturday, a Sunday, a legal holiday under state statute or a day that the Indiana Professional Licensing Agency offices are closed during regular business hours. The ALJ's Recommended Findings of Fact, Conclusions of Law and Order is not the final order of the Indiana State Board of Nursing in this proceeding. In the absence of any objection, the Indiana State Board of Nursing may affirm the ALJ's Recommended Findings of Fact, Conclusions of Law and Order as its final order or will serve notice of its intention to review any issue related to the ALJ's Recommended Findings of Fact, Conclusions of Law and Order.

Lori Ritchie, R.N.

Date _____

STATE OF _____)
)SS:
COUNTY OF _____)

Signed and sealed this _____ day of _____, 2012

Signature

Printed

My Commission Expires:

County of Residence:

Jason Gross

Deputy Attorney General

Attorney Number 23587-49

Attorney for the State of Indiana

Date _____



www.PLA.IN.gov

Governor Mitchell E. Daniels, Jr.

402 W. Washington St. Room W072
Indianapolis, IN 46204
Tel: (317) 234-2043 Fax: (317) 233-4236

May 29, 2012

State of California
Department of Justice
Attn: Patricia Davis
1300 1 Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550

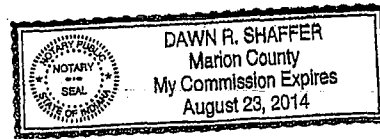
STATEMENT OF CERTIFICATION

I, Elizabeth Kiefner Crawford, Director of the Indiana Board of Nursing, through the Indiana Professional Licensing Agency, being duly sworn upon my oath, depose and say:

I certify that the Indiana Professional Licensing Agency is the record-keeping agency for the Indiana Board of Nursing, which is responsible for the licensing of registered and practical nursing licensees in the State of Indiana. As Director, I am the keeper of the records of all administrative proceedings before the Indiana Board of Nursing.

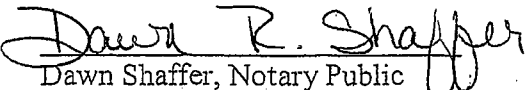
I further certify that the attached documents are all official copies of documents related to disciplinary action taken against the Indiana nursing license of Lori Ritchie, R.N. license number 28176950A.

Elizabeth Kiefner Crawford, Director
Indiana Board of Nursing
Indiana Professional Licensing
Agency



STATE OF INDIANA)
)
COUNTY OF MARION) SS:

Elizabeth Kiefner Crawford personally appeared before me, Dawn Shaffer, and acknowledged the foregoing statements as true this 29th day of May, 2012.


Dawn Shaffer, Notary Public
County of Residence: Marion
Commission Expires: August 23, 2014
